

[REDACTED] [REDACTED] [REDACTED]  
MAY 28 1995

Employer Identification Number: [REDACTED]

Form: 1120

Tax Years: [REDACTED] and subsequent years

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

This ruling is made for the following reason(s):

You have not established that you will be operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code, because you have not established that you will be serving public rather than private interests. You are not lessening the burdens of government within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. Furthermore, you are not operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

In post-conference submissions, you made arguments including that non-resident aliens are only subject to tax on income from the District of Columbia, the Internal Revenue Code was passed by Congress to apply to the residents of the District of Columbia, and that the Sixteenth Amendment was never ratified, and you submitted a fabricated document purporting to be an April 4, 1985, memo from the Commissioner of Internal Revenue. These arguments have been labelled by courts as "tax protester" type arguments and have been uniformly rejected as totally lacking in merit and frivolous, often leading to sanctions imposed upon their proponents. Lonsdale v. U.S. 919 F.2d 1440, 1447-1448 (10 Cir. 1990); Becraft, In re, 885 F.2d 547, 548-549 (9th Cir. 1989); Knoblauch v. Commissioner, 749 F.2d 200, 202 (5th Cir. 1984), cert. denied 474 U.S. 930 (1985); Woods v. Commissioner, 91 T.C. 88, 90-91 (1988).

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax years shown

[REDACTED]

above. You should file these returns with your Key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of time is granted. Returns for later tax years should be filed with the appropriate service center as indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, you must initiate a suit in the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia before the 91st day after the date that this ruling was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. Processing of income tax returns and assessment of any taxes due will not be delayed because a declaratory judgment suit has been filed under section 7428.

In accordance with section 6104(c) of the Code, the appropriate State officials will be notified of this action.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]  
Director, Exempt Organizations  
Division

cc: [REDACTED]

cc: [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

EIN: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

OCT 17 1994

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED], and changed your name to the one shown above on [REDACTED]. You filed a completed exemption application on [REDACTED]. You amended your Articles of Incorporation on [REDACTED], to provide that you are "organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501(c)(3) of the ... Code". You also amended your Articles of Incorporation to provide for a proper dissolution provision. In addition, you have also agreed to amend your Articles of Incorporation to otherwise comply with the requirements of the "organizational test" under section 501(c)(3).

In addition to being organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501(c)(3) of the Code, your By-Laws also reflect that you were formed to carry out the following purposes:

2. To support the needs of God's Church.
3. To educate and enable farmers get out of debt.
4. To support projects which create jobs, produce and/or process food, provide transportation, provide housing, or provide humanitarian aid.
5. ... Holding of shares of other corporations, the entering of joint ventures and partnership relationships....

We asked you to describe more fully how you proposed to carry out each of the purposes set out in your By-Laws.

[REDACTED]

You explained that you would support the needs of God's Church by providing a home for pregnant girls. You stated that you had met with [REDACTED] (hereafter [REDACTED]), and asked the [REDACTED]' churches to provide [REDACTED] Homes for pregnant girls. You stated that you would offer \$[REDACTED] to members of [REDACTED]' churches for making their homes available to pregnant girls. However you stated that no documents or agreements have been completed with [REDACTED]. Also, you could not furnish particulars with respect to this project.

You stated that you would solicit, receive, and hold donations of shares of other corporations in support of your project. Also, you stated that you might seek use of an abandoned radar base in [REDACTED] to use for a home for widows and orphans. However, you could not fully describe how you would engage in these projects.

You represent that you will not engage in the [REDACTED] Home Project, or in any of the other activities set out in sections 4 and 5 of Article III of your By-Laws for the near future. You state that if you establish exempt status under section 501(c)(3) of the Code, that you will not engage in such activities until you request a ruling from the Service that engaging in such activity(s) will not adversely affect your tax exempt status.

With respect to educating and enabling farmers to get out of debt, you explain that you will advise farmers of the means and contracts available to them to be debt free in 5 years, or less. You indicate that mobile units will distribute this information in farming areas. Your educational services appear to be analogous to that of an organization that provides debt-counseling for persons in debt.

Also, you state that your personnel will coordinate with the mediation branch of the State Agriculture Department in an effort to educate farmers on how to get out of debt. The farmer and county agents would be educated in using [REDACTED], a computer program established by [REDACTED]. It appears [REDACTED] would help the farmer in better estimating his/her income and expenses.

However, you indicate that your primary and predominate activity is the facilitating of last resort loans for farmers to save their family farms. You state that you will only facilitate loans for farmers who can not borrow from any other lending institution and which are facing foreclosure on their FmHa loans. You state that these farmers will learn of your loan program after completing the mediation process offered by the State Department of Agriculture.

[REDACTED]

You submitted a copy of a loan commitment letter, in the amount of \$ [REDACTED] from [REDACTED] (hereafter [REDACTED]). [REDACTED] is an offshore investment company, located in [REDACTED], which has offices in [REDACTED]. You state that the loan will create the fund from which loans will be made to the farmers. You state that this fund and the mortgages assigned to you by farmers is [REDACTED]'s security. You state that, with the farmer's permission, the farmer's FmHA mortgage is assigned to you. Also, you indicate that [REDACTED] will have a representative on your governing board, which you identify as a "supervisory directorship". You indicate that [REDACTED]'s representative will counsel and supervise the investment and distribution of the funds loaned to you by [REDACTED].

You state that your representatives meet with the farmers referred by the State Department of Agriculture. You state that loans will be made in the maximum amount of \$ [REDACTED] at interest rates between [REDACTED] to [REDACTED] percent, which you represent is the same rate as FmHA loans. You state that farmers will be required to grow [REDACTED] on his/her farm over a 5 year period to help pay off such loan. [REDACTED] is a grain, which appears to be more nutritional than barley, wheat, and corn, and has been identified as a promising commercial food crop.

You state that you will be the sole shareholder of [REDACTED] (hereafter [REDACTED]). You represent that [REDACTED] will be formed to qualify for recognition of exemption under section 501(c)(5) of the Code. [REDACTED]'s function will be to negotiate the grain contracts between the farmers and the bakery/cereal company. You state that [REDACTED] is a legume which produces between 80-150 of nitrogen fertilizer per year, and that you will encourage farmers to plant [REDACTED]. You state that you explain to the farmers about the grain contracts, and how they will enable the farmers to repay their mortgages.

You submitted a copy of an executive summary report prepared by Barron. The report states that you have enough seed ([REDACTED]) to plant 500,000 acres, and a reserve for an additional 500,000 acres. You state that these seeds will be donated to you after you receive exempt status under 501(c)(3). Also, the report provides that you have a commitment from a Fortune 500 cereal company to include [REDACTED] in their cereal, and that you have a commitment from a regional bakery to use [REDACTED] in their bread.

You state that you will develop a health bread for your own use, and that you will have the exclusive rights to the process to treat wheat and [REDACTED], which will give the product a longer shelf life. You represent that the formulas and ingredients in the flour blends used by the bakery and cereal company will be owned and maintained by you.

[REDACTED]

We asked you to furnish (i) a copy, or a draft copy, of the loan agreement you will sign with a farmer, (ii) a copy, or a draft copy, of the loan agreement you have with [REDACTED], (iii) and a copy, or a draft copy, of the growers agreement that the farmer will enter into with [REDACTED] and or the cereal company and bakery. You did not submit this information. You stated that these documents would not be prepared until you received tax exemption. You declined to submit such documents.

You state that you will make loans to farmers located in [REDACTED], and in the states of [REDACTED] and [REDACTED].

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that, in general, an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes, and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. For the definition of the words "private shareholders or individual", see paragraph (c) of section 1.501(a)-1 of the regulations.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for

one or more of the purposes specified in subdivision (i) of section 1.501(c)(3)-1(d)(1) unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or person controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term charitable, as used in section 501(c)(3) of the Code, in its generally accepted legal sense. "Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency...."

Section 1.501(c)(3)-1(e)(1) of the regulations provides that "[a]n organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513....An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3)...."

Rev. Rul. 61-87, 1961-1 C.B. 191, provides that a corporation, which was formed for the purpose of making low interest unsecured guaranteed loans to students enable them to complete their educational programs, is exempt from federal income tax under section 501(c)(3) of the Code. The Service reasoned that since the organization's basic purpose was to aid students in attaining an education, and that since aiding students in attaining an education is regarded as a charitable activity, the fact that interest is charged or that a fee is received for guaranteeing a loan is not in and of itself sufficient to deny exemption under section 501(c)(3) of the Code.

Rev. Rul. 69-441, 1969-2 C.B. 115, provides that a nonprofit organization formed to help reduce personal bankruptcy by providing information to the public on budgeting, buying practices, and the sound use of consumer credit, and assisting low-income individuals and families who have financial problems by providing, without charge, counseling, and, if necessary,

budget plans for liquidation of indebtedness, qualifies for exemption.

Rev. Rul. 74-587, 1974-2 C.B. 162, holds that an organization, which limits making loans to various commercial enterprises located in a economically depressed area (that is in need of rehabilitation), qualifies for exemption under section 501(c)(3) of the Code. The Service concluded that because the organization, in selecting recipients for aid, gave preference to businesses that would provide training and employment for the unemployed, or under-employed residents of an identifiable economically depressed area (whether rural or urban), the organization was performing a charitable activity within the meaning of section 501(c)(3).

Rev. Rul. 77-111, 1977-1 C.B. 144, describes a situation in which two organizations that promoted business activities in a economically depressed area, did not qualify for exemption under section 501(c)(3) of the Code because the activities of the organization were directed to the benefit of the business concerns and not to accomplishing any charitable purpose within the meaning of section 501(c)(3).

Rev. Rul. 81-284, 1981-2 C.B. 130, holds that a small business investment company licensed by the Small Business Administration, that was formed to provide financial assistance to businesses that would provide training and employment opportunities for the unemployed, or under-employed residents of an economically depressed area, qualified for exemption under section 501(c)(3) of the Code. The Service, in effect, said that if an organization's recipients are not indigent or underprivileged, the organization must establish that the aid to such noncharitable recipient will be used to assist those who are in need, or otherwise serve some other charitable purpose.

Rev. Rul. 85-2, 1985-1 C.B. 178, holds that an organization, that provides legal assistance to guardians ad litem, who represent abused and neglected children before a juvenile court that requires their appointment, lessens the burdens of government and, therefore, qualifies for exemption under section 501(c)(3) of the Code. In this revenue ruling, the Service concluded that a determination of whether an organization is lessening the burdens of government, (1) requires consideration of whether such organization's activities are activities that a governmental unit considers to be its burdens, and whether there is an objective manifestation by the government that it considers such activity to be part of its burden; (2) secondly, it is necessary to establish that the government recognize that the



subject organization is, in effect, lessening a burden of government.

The Consolidated Farmers Home Administration Act of 1961 authorizes the Secretary of Agriculture to make and insure loans to farmers and ranchers in the United States and certain jurisdictions under United States control. (Public Law 87-128, AUG. 8, 1961)

Public Law 101-624-NOV. 28, 1990, amended Subtitle D (7 U.S.C. 1981 et seq.) by adding Section 359. Section 359 authorizes the Secretary of Agriculture to enter into contracts with State or private providers of farm management and credit counseling (including a community college, the Extension service of a State, a State department of agriculture, or a nonprofit organization) to provide educational training to all borrowers of farm program direct and guaranteed loans.

The threshold issue is whether you are organized and operated exclusively for charitable purposes and that you are serving public rather than private interests.

The information furnished shows that one of your activities is educating farmers to get out of debt. Clearly, educating farmers to get out of debt is an educational activity. You state that the farmers will be referred to you by the State Department of Agriculture after they have completed a mediation process offered by the State Department of Agriculture. The information furnished does not indicate whether, or not, you will enter into a contract with the U.S. Department of Agriculture to provide educational training to recipients of farm program direct and guaranteed loans.

The educational activities described above appear to be similar to the educational activities conducted by the organization that was the subject of Rev. Rul. 69-441, supra. However, in addition to educating farmers on how to get out of debt, you state that you will make loans to farmers who are in default and can not make payments on their FmHa loans.

You state that your primary and predominate activity is the facilitating of last resort loans for farmers to save their family farms. You state that you will only facilitate loans for farmers who can not borrow from any other lending institution and which are facing foreclosure on their FmHa loans. You state that these farmers will learn of your loan program after completing the mediation process offered by the State Department of Agriculture. You have a loan commitment in the amount of \$[REDACTED] from [REDACTED]. You state that this loan will create the fund from which you will make loans to the farmers.

[REDACTED]

You state that these farm loans will be made in the maximum amount of \$[REDACTED] at interest rates between [REDACTED] to [REDACTED] percent, which is the same rate as FmHA loans. Further, you state that each farmer will be required to grow [REDACTED] on his/her farm over a 5 year period to help pay off such loan. You state that you will form [REDACTED] as a subsidiary and that [REDACTED]'s function will be to negotiate the [REDACTED] grain contracts between the farmers, who will borrow from you, and the bakery and the cereal company that will use the [REDACTED]. In addition, you indicate that the loan fund, which is established by the corpus of [REDACTED]'s loan, and the mortgages assigned to you by farmers is [REDACTED]'s security for its loan. Also, you indicate that [REDACTED] will have a representative on your governing board, that will counsel and supervise the investment and distribution of the funds loaned to you by [REDACTED].

We asked you to furnish (i) a copy, or a draft copy, of the loan agreement you will sign with the farmers, (ii) a copy, or a draft copy, of the loan agreement you have with [REDACTED], (iii) and a copy, or a draft copy, of the growers agreement that the farmers will enter into with [REDACTED] and or the cereal company and bakery. Because you did not submit copies of these documents we are unable to determine whether these loan and grower agreements will serve private interests more than incidentally. Therefore, we are unable to conclude that you are serving public rather than private interests within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Accordingly, we can not determine whether you are organized or operated exclusively for one or more of the purposes specified in subdivision (i) of section 1.501(c)(3)-1(d)(1) of the regulations.

Also, before we can reach a determination on your tax exempt status, we will need a copy of the contract with the U.S. Department of Agriculture, so that we can determine whether your training program will accomplish an educational purpose within the meaning of section 1.501(c)(3)-1(c)(1) of the regulations.

Also, we will need the above information, with respect to the contract with the U.S. Department of Agriculture, before we can determine whether you will be a public charity or a private foundation, within the meaning of section 509(a) of the Code.

Even if it was determined that you were not serving private interests within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations, the information furnished does not establish that you are operated to benefit members of a charitable class. The information furnished shows that your primary activity is the making of loans to farmers who are in default on their FmHA loans. Farmers are not, in and of themselves, members of a charitable class, as students are not members of a charitable class. However, aiding students in attaining an education is

You state that the initial geographic area in which you will operate will be [REDACTED], and in [REDACTED]. You have not furnished documentation that this [REDACTED] area is an economically depressed area. However, you indicated that your first loan would be to a farmer located in [REDACTED].

An organization that is engaged in an activity that lessens the burdens of government is engaged in a charitable activity within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. In determining whether an organization is engaged in an activity that is actually lessening the burdens of government, there are two criteria that must be met. The governmental unit must make (1) an objective manifestation that it considers such activity to be part of its burden; and (2) secondly, it is necessary that the governmental unit recognize that the subject organization as lessening its burden of government, (see Rev. Rul. 85-2, supra).

The Service has concluded that in determining whether a government has made an objective manifestation that a particular activity is a burden of government, the fact that an organization is engaged in an activity that is sometimes undertaken by the government is insufficient to establish a burden of government. Similarly, the fact that the government or an official of the government expresses approval of an organization and its activities is also not sufficient to establish that the organization is lessening the burdens of government. Finally, in

determining whether such organization is actually lessening the burdens of government, the Service has concluded that all of the relevant facts and circumstances must be considered.

It is clear that the United States has accepted the burden of making FmHa loans to farmers, who meet certain criteria, and who are unable to financing from conventional sources. However, we have found nothing to establish that the United States government recognizes you, or any other entity (that makes loans to farmers in default on their FmHa loans) as lessening its burden. Therefore, we conclude that your operations are distinguishable from the organization that is the subject of Rev. Rul. 85-2, supra. Accordingly, we conclude that you are not lessening the burdens of government within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. Therefore, we conclude that you are not operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

In summary, (1) because you have not furnished copies of the contracts and agreements that you will enter into, we can not determine whether your loan activity will serve public rather than private interests within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations; (2) because you have not established that you will only make loans to farmers who are members of a charitable class or limit your loan program to economically depressed rural areas, we are not able to conclude that you will be operated exclusively for one or more exempt purposes within the meaning of section 1.501(c)(3)-1(c)(1) of the regulations; (3) and because you are not lessening the burdens of government within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations, we conclude that you are not operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

Therefore, based on the above, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your principal officers. You also have the right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

[REDACTED]

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days this ruling will become final and copies will be forwarded to your key District Director in Chicago, Illinois. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

When sending additional correspondence to the Internal Revenue Service with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service

[REDACTED]  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Thank you for your cooperation.

Sincerely yours,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 3

cc: [REDACTED]

[REDACTED] [REDACTED]